

House File 442 - Introduced

HOUSE FILE 442

BY KAUFMANN

A BILL FOR

- 1 An Act relating to operating-while-intoxicated offenses
- 2 including license revocation periods and ignition interlock
- 3 licenses and devices and providing penalties.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321.376, subsection 1, Code 2011, is
2 amended to read as follows:

3 1. The driver of a school bus shall hold a driver's license
4 issued by the department of transportation valid for the
5 operation of the school bus and a certificate of qualification
6 for operation of a commercial motor vehicle issued by a
7 physician or osteopathic physician licensed pursuant to
8 chapter 148, physician's assistant, advanced registered nurse
9 practitioner, or chiropractor or any other person identified
10 by federal and state law as authorized to perform physical
11 examinations, and shall successfully complete an approved
12 course of instruction in accordance with subsection 2. A
13 person holding a ~~temporary restricted~~ an ignition interlock
14 license issued under chapter 321J shall be prohibited from
15 operating a school bus. The department of education shall
16 refuse to issue an authorization to operate a school bus to
17 any person who, after notice and opportunity for hearing, is
18 determined to have committed any of the acts proscribed under
19 section 321.375, subsection 2. The department of education
20 shall take adverse action against any person who, after notice
21 and opportunity for hearing, is determined to have committed
22 any of the acts proscribed under section 321.375, subsection 2.
23 Such action may include a reprimand or warning of the person
24 or the suspension or revocation of the person's authorization
25 to operate a school bus. The department of education shall
26 recommend, and the state board of education shall adopt under
27 chapter 17A, rules and procedures for issuing and suspending or
28 revoking authorization to operate a school bus in this state.
29 Rules and procedures adopted shall include but are not limited
30 to provisions for the revocation or suspension of, or refusal
31 to issue, authorization to persons who are determined to have
32 committed any of the acts proscribed under section 321.375,
33 subsection 2.

34 Sec. 2. Section 321.560, subsection 1, Code 2011, is amended
35 to read as follows:

1 1. A license to operate a motor vehicle in this state shall
 2 not be issued to any person declared to be a habitual offender
 3 under section 321.555, subsection 1, for a period of not less
 4 than two years nor more than six years from the date of the
 5 final decision of the department under section 17A.19 or the
 6 date on which the district court upholds the final decision of
 7 the department, whichever occurs later.

8 ~~a. A However, a temporary restricted license may be issued~~
 9 ~~pursuant to section 321.215, subsection 2, to a person declared~~
 10 ~~to be a habitual offender under section 321.555, subsection 1,~~
 11 ~~paragraph "c".~~

12 ~~b. A temporary restricted license may be issued pursuant~~
 13 ~~to section 321J.20, subsection 2, to a person declared to be a~~
 14 ~~habitual offender due to a combination of the offenses listed~~
 15 ~~under section 321.555, subsection 1, paragraphs "b" and "c".~~

16 Sec. 3. Section 321J.1, Code 2011, is amended by adding the
 17 following new subsections:

18 NEW SUBSECTION. 08. "*Ignition interlock device*" means
 19 an electronic device, approved by the commissioner of public
 20 safety, that is installed in a vehicle and that requires the
 21 taking of a breath sample test prior to the starting of, and
 22 at periodic intervals during, the operation of the vehicle. A
 23 functioning ignition interlock device prevents a person from
 24 operating the motor vehicle with an alcohol concentration
 25 greater than a level set by rule of the commissioner of public
 26 safety.

27 NEW SUBSECTION. 008. "*Ignition interlock license*" means the
 28 partial restoration of a person's driving privileges to operate
 29 a motor vehicle during the period the person's driver's license
 30 or privilege to operate a motor vehicle is suspended or revoked
 31 for a violation of this chapter. The issuance and continuing
 32 validity of an ignition interlock license is conditioned upon
 33 the installation and maintenance of an ignition interlock
 34 device on one or more noncommercial vehicles owned or to be
 35 operated by the person and restricting the person's driving to

1 vehicles so equipped.

2 NEW SUBSECTION. 0008. *"Ignition interlock restriction"*
3 means a limitation on a driver's license requiring the person
4 to whom such restricted license is issued to operate only
5 noncommercial vehicles equipped with a functioning ignition
6 interlock device.

7 Sec. 4. Section 321J.2, subsection 3, paragraphs c and d,
8 Code 2011, are amended to read as follows:

9 c. Assessment of a fine of one thousand two hundred fifty
10 dollars. However, in the discretion of the court, if no
11 personal or property injury has resulted from the defendant's
12 actions, the court may waive up to six hundred twenty-five
13 dollars of the fine when the defendant presents to the court
14 at the end of the minimum period of ineligibility ~~a temporary~~
15 restricted an ignition interlock license issued pursuant to
16 section 321J.20.

17 (1) Upon the entry of a deferred judgment, a civil penalty
18 shall be assessed as provided in section 907.14 in an amount
19 not less than the amount of the criminal fine authorized
20 pursuant to this paragraph "c".

21 (2) As an alternative to a portion or all of the fine,
22 the court may order the person to perform unpaid community
23 service. However, the court shall not order the person to
24 perform unpaid community service in lieu of a civil penalty or
25 victim restitution. Surcharges and fees shall also be assessed
26 pursuant to chapter 911.

27 d. Revocation of the person's driver's license for a minimum
28 period of one hundred eighty days up to a maximum revocation
29 period of one year, pursuant to section 321J.4, subsection
30 1, section 321J.9, or section 321J.12, subsection 2. If a
31 revocation occurs due to test refusal under section 321J.9,
32 the defendant shall be ineligible for ~~a temporary restricted~~
33 an ignition interlock license for a minimum period of ~~ninety~~
34 thirty days.

35 ~~{1}~~ A defendant whose alcohol concentration is .08 or

1 ~~more but not more than .10 shall not be eligible for any~~
 2 ~~temporary restricted license for at least thirty days if~~
 3 ~~a test was obtained and an accident resulting in personal~~
 4 ~~injury or property damage occurred~~ to apply for an ignition
 5 interlock license on the effective date of the revocation or
 6 any date thereafter during the revocation period if a test
 7 was obtained. The department shall require the defendant to
 8 install an ignition interlock device ~~of a type approved by~~
 9 ~~the commissioner of public safety on all vehicles owned or~~
 10 ~~operated by the defendant if the defendant seeks a temporary~~
 11 ~~restricted~~ an ignition interlock license. ~~There shall be no~~
 12 ~~such period of ineligibility if no such accident occurred, and~~
 13 ~~the defendant shall not be required to install an ignition~~
 14 ~~interlock device.~~

15 (2) ~~A defendant whose alcohol concentration is more than .10~~
 16 ~~shall not be eligible for any temporary restricted license for~~
 17 ~~at least thirty days if a test was obtained, and an accident~~
 18 ~~resulting in personal injury or property damage occurred or the~~
 19 ~~defendant's alcohol concentration exceeded .15. There shall be~~
 20 ~~no such period of ineligibility if no such accident occurred~~
 21 ~~and the defendant's alcohol concentration did not exceed .15.~~
 22 ~~In either case, where a defendant's alcohol concentration is~~
 23 ~~more than .10, the department shall require the defendant to~~
 24 ~~install an ignition interlock device of a type approved by the~~
 25 ~~commissioner of public safety on all vehicles owned or operated~~
 26 ~~by the defendant if the defendant seeks a temporary restricted~~
 27 ~~license.~~

28 Sec. 5. Section 321J.2, subsection 4, paragraphs b and c,
 29 Code 2011, are amended to read as follows:

30 b. ~~Assessment of a minimum fine of one thousand eight~~
 31 ~~hundred fifty dollars and a maximum fine of six thousand~~
 32 ~~two hundred fifty dollars.~~ The court may waive up to four
 33 thousand three hundred seventy-five dollars of the fine when
 34 the defendant presents to the court at the end of the minimum
 35 period of the person's ineligibility an ignition interlock

1 license pursuant to section 321J.20. Surcharges and fees shall
2 be assessed pursuant to chapter 911.

3 c. Revocation of the defendant's driver's license for a
4 period of one year, if a revocation occurs pursuant to section
5 321J.12, subsection 1. If a revocation occurs due to test
6 refusal under section 321J.9, or pursuant to section 321J.4,
7 subsection 2, the defendant's license shall be revoked for a
8 period of ~~two~~ three years.

9 Sec. 6. Section 321J.2, subsection 5, paragraph b, Code
10 2011, is amended to read as follows:

11 b. Assessment of a ~~minimum fine of three thousand one~~
12 ~~hundred twenty-five dollars and a maximum fine of nine thousand~~
13 ~~three hundred seventy-five dollars.~~ The court may waive up
14 to six thousand two hundred fifty dollars of the fine when
15 the defendant presents to the court at the end of the minimum
16 period of the person's ineligibility an ignition interlock
17 license pursuant to section 321J.20. Surcharges and fees shall
18 be assessed pursuant to chapter 911.

19 Sec. 7. Section 321J.4, Code 2011, is amended to read as
20 follows:

21 **321J.4 Revocation of license — ignition interlock devices —**
22 ~~conditional temporary restricted~~ ignition interlock license.

23 1. If a defendant is convicted of a violation of section
24 321J.2 and the defendant's driver's license or nonresident
25 operating privilege has not been revoked under section 321J.9
26 or 321J.12 for the occurrence from which the arrest arose, the
27 department shall revoke the defendant's driver's license or
28 nonresident operating privilege for one hundred eighty days
29 if the defendant submitted to chemical testing and has had
30 no previous conviction or revocation under this chapter and
31 shall revoke the defendant's driver's license or nonresident
32 operating privilege for ~~one year~~ eighteen months if the
33 defendant refused to submit to chemical testing and has had
34 no previous conviction or revocation under this chapter. ~~The~~
35 ~~defendant shall not be eligible for any temporary restricted~~

1 ~~license for at least ninety days if a test was refused under~~
2 ~~section 321J.9.~~

3 ~~a.~~ A defendant whose alcohol concentration is .08 or more
4 ~~but not more than .10 shall not be eligible for any temporary~~
5 ~~restricted to apply for an ignition interlock license for~~
6 ~~at least thirty days on or after the effective date of the~~
7 ~~revocation if a test was obtained and an accident resulting in~~
8 ~~personal injury or property damage occurred.~~ The department
9 shall require the defendant to install an and maintain a
10 functioning ignition interlock device ~~of a type approved by the~~
11 ~~commissioner of public safety on all vehicles owned or operated~~
12 ~~by the defendant if the defendant seeks a temporary restricted~~
13 applies for an ignition interlock license. ~~There shall be no~~
14 ~~such period of ineligibility if no such accident occurred, and~~
15 ~~the defendant shall not be required to install an ignition~~
16 ~~interlock device.~~

17 ~~b.~~ A defendant whose alcohol concentration is more than .10
18 shall not be eligible for any temporary restricted license for
19 ~~at least thirty days if a test was obtained and an accident~~
20 ~~resulting in personal injury or property damage occurred or the~~
21 ~~defendant's alcohol concentration exceeded .15.~~ There shall be
22 ~~no such period of ineligibility if no such accident occurred~~
23 ~~and the defendant's alcohol concentration did not exceed .15.~~
24 ~~In either case, where a defendant's alcohol concentration is~~
25 ~~more than .10, the department shall require the defendant to~~
26 ~~install an ignition interlock device of a type approved by the~~
27 ~~commissioner of public safety on all vehicles owned or operated~~
28 ~~by the defendant if the defendant seeks a temporary restricted~~
29 ~~license.~~

30 ~~c.~~ b. If the defendant is under the age of twenty-one, the
31 defendant shall not be eligible for a ~~temporary restricted~~ an
32 ignition interlock license for at least sixty days after the
33 effective date of revocation.

34 2. If a defendant is convicted of a violation of section
35 321J.2, and the defendant's driver's license or nonresident

1 operating privilege has not already been revoked under section
2 321J.9 or 321J.12 for the occurrence from which the arrest
3 arose, the department shall revoke the defendant's driver's
4 license or nonresident operating privilege for one year if the
5 defendant submitted to chemical testing and has had a previous
6 conviction or revocation under this chapter and shall revoke
7 the defendant's driver's license or nonresident operating
8 privilege for ~~two~~ three years if the defendant refused to
9 submit to chemical testing and has had a previous revocation
10 under this chapter. The defendant shall ~~not~~ be eligible for
11 ~~any temporary restricted~~ to apply for an ignition interlock
12 ~~license for forty-five days after~~ on the effective date of the
13 ~~revocation if the defendant submitted to chemical testing and~~
14 ~~shall not be eligible for any temporary restricted license~~
15 ~~for ninety days after the effective date of revocation if the~~
16 ~~defendant refused chemical testing or any date thereafter~~
17 during the revocation period. The ~~temporary restricted~~
18 ignition interlock license shall be issued in accordance with
19 section 321J.20, ~~subsection 2.~~ The department shall require
20 the defendant to install an ignition interlock device of a type
21 approved by the commissioner of public safety on all vehicles
22 owned or operated by the defendant if the defendant seeks a
23 temporary restricted license at the end of the minimum period
24 of ineligibility. A temporary restricted license shall not
25 be granted by the department until the defendant installs the
26 ignition interlock device.

27 3. If the court defers judgment pursuant to section 907.3
28 for a violation of section 321J.2, and if the defendant's
29 driver's license or nonresident operating privilege has not
30 been revoked under section 321J.9 or 321J.12, or has not
31 otherwise been revoked for the occurrence from which the arrest
32 arose, the department shall revoke the defendant's driver's
33 license or nonresident operating privilege for a ~~period of not~~
34 ~~less than thirty days nor more than ninety days.~~ The defendant
35 shall not be eligible for any temporary restricted license for

1 ~~at least ninety days if a test was refused~~ the time period
2 required for conviction of the violation for which the person
3 was charged.

4 ~~a.~~ A defendant whose alcohol concentration is .08 or more
5 ~~but not more than .10 shall not be eligible to apply for any~~
6 ~~temporary restricted~~ an ignition interlock license on or after
7 the effective date of the revocation for at least thirty days
8 ~~if a test was obtained and an accident resulting in personal~~
9 ~~injury or property damage occurred. The department shall~~
10 ~~require the defendant to install an ignition interlock device~~
11 ~~of a type approved by the commissioner of public safety on all~~
12 ~~vehicles owned or operated by the defendant if the defendant~~
13 ~~seeks a temporary restricted license. There shall be no such~~
14 ~~period of ineligibility if no such accident occurred, and~~
15 ~~the defendant shall not be required to install an ignition~~
16 ~~interlock device.~~

17 ~~b.~~ A defendant whose alcohol concentration is more than .10
18 ~~shall not be eligible for any temporary restricted license for~~
19 ~~at least thirty days if a test was obtained and an accident~~
20 ~~resulting in personal injury or property damage occurred or the~~
21 ~~defendant's alcohol concentration exceeded .15. There shall be~~
22 ~~no such period of ineligibility if no such accident occurred~~
23 ~~and the defendant's alcohol concentration did not exceed .15.~~
24 ~~In either case, where a defendant's alcohol concentration is~~
25 ~~more than .10, the department shall require the defendant to~~
26 ~~install an ignition interlock device of a type approved by the~~
27 ~~commissioner of public safety on all vehicles owned or operated~~
28 ~~by the defendant if the defendant seeks a temporary restricted~~
29 ~~license.~~

30 ~~c.~~ b. If the defendant is under the age of twenty-one, the
31 defendant shall not be eligible for a ~~temporary restricted~~ an
32 ignition interlock license for at least sixty days after the
33 effective date of the revocation.

34 4. Upon a plea or verdict of guilty of a third or subsequent
35 violation of section 321J.2, the department shall revoke

1 the defendant's driver's license or nonresident operating
2 privilege for a period of six years. The defendant shall not
3 be eligible to apply for a temporary restricted an ignition
4 interlock license for one year after the effective date of the
5 revocation. The department shall require the defendant to
6 install an ignition interlock device of a type approved by the
7 commissioner of public safety on all vehicles owned or operated
8 by the defendant if the defendant seeks a temporary restricted
9 license at the end of the minimum period of ineligibility.
10 A temporary restricted license shall not be granted by the
11 department until the defendant installs the ignition interlock
12 device upon release from the custody of the director of the
13 department of corrections pursuant to section 321J.2.

14 5. Upon a plea or verdict of guilty of a violation of
15 section 321J.2 which involved a personal injury, the court
16 shall determine in open court, from consideration of the
17 information in the file and any other evidence the parties may
18 submit, whether a serious injury was sustained by any person
19 other than the defendant and, if so, whether the defendant's
20 conduct in violation of section 321J.2 caused the serious
21 injury. If the court so determines, the court shall order
22 the department to revoke the defendant's driver's license or
23 nonresident operating privilege for a period of one year in
24 addition to any other period of suspension or revocation. The
25 defendant shall not be eligible for ~~any temporary restricted~~
26 an ignition interlock license until the minimum period of
27 ineligibility has expired under this section or section 321J.9,
28 321J.12, or 321J.20. The defendant shall surrender to the
29 court any Iowa license or permit and the court shall forward it
30 to the department with a copy of the order for revocation.

31 6. Upon a plea or verdict of guilty of a violation of
32 section 321J.2 which involved a death, the court shall
33 determine in open court, from consideration of the information
34 in the file and any other evidence the parties may submit,
35 whether a death occurred and, if so, whether the defendant's

1 conduct in violation of section 321J.2 caused the death. If
2 the court so determines, the court shall order the department
3 to revoke the defendant's driver's license or nonresident
4 operating privilege for a period of six years. The defendant
5 shall not be eligible for ~~any temporary restricted~~ an ignition
6 interlock license for at least the lesser of two years after
7 the effective date of the revocation or until completion of
8 the defendant's sentence under section 707.6A, subsection 1.

9 The defendant shall surrender to the court any Iowa license or
10 permit and the court shall forward it to the department with a
11 copy of the order for revocation.

12 7. If a license or permit to operate a motor vehicle is
13 revoked or denied under this section or section 321J.9 or
14 321J.12, the period of revocation or denial shall be the period
15 provided for such a revocation or until the defendant reaches
16 the age of eighteen whichever period is longer.

17 8. a. On a conviction for or as a condition of a deferred
18 judgment for a violation of section 321J.2, the court may order
19 the defendant to install and maintain functioning ignition
20 interlock devices of a type approved by the commissioner of
21 public safety on all motor vehicles owned or operated by the
22 defendant which, without tampering or the intervention of
23 another person, would prevent the defendant from operating the
24 motor vehicle with an alcohol concentration greater than a
25 level set by rule of the commissioner of public safety on one
26 or more vehicles owned or operated by the defendant for periods
27 of time as determined by the court. The court shall notify the
28 department of the beginning and ending dates of such periods.
29 The department shall add an ignition interlock restriction to
30 the person's driver's record for the period ordered by the
31 court.

32 ~~b. The commissioner of public safety shall adopt rules to~~
33 ~~approve certain ignition interlock devices and the means of~~
34 ~~installation of the devices, and shall establish the level of~~
35 ~~alcohol concentration beyond which an ignition interlock device~~

1 ~~will not allow operation of the motor vehicle in which it is~~
2 ~~installed.~~

3 ~~c.~~ b. The order to install ignition interlock devices shall
4 remain in effect for a period of time as determined by the
5 court which shall not exceed the maximum term of imprisonment
6 which the court could have imposed according to the nature of
7 the violation. While the order is in effect, the defendant
8 shall not operate a motor vehicle which does not have an
9 approved ignition interlock device installed.

10 ~~d.~~ c. If the defendant's driver's license or nonresident
11 operating privilege has been revoked, the department shall
12 not issue a ~~temporary permit~~ an ignition interlock license or
13 a driver's license to the person without certification that
14 an approved ignition interlock ~~devices have~~ device has been
15 installed in ~~all~~ one or more motor vehicles owned or operated
16 by the defendant while the order is in effect.

17 ~~e.~~ d. A defendant who fails within a reasonable time to
18 comply with an order to install an approved ignition interlock
19 device may be declared in contempt of court and punished
20 accordingly.

21 ~~f.~~ A person who tampers with or circumvents an ignition
22 interlock device installed under a court order while an order
23 is in effect commits a serious misdemeanor.

24 Sec. 8. Section 321J.9, subsection 1, paragraphs a and b,
25 Code 2011, are amended to read as follows:

26 a. One year Eighteen months if the person has no previous
27 revocation under this chapter; ~~and.~~

28 b. Two Three years if the person has had a previous
29 revocation under this chapter.

30 Sec. 9. Section 321J.9, subsections 2 and 3, Code 2011, are
31 amended to read as follows:

32 2. ~~a.~~ A person whose driver's license or nonresident
33 operating privileges are revoked under subsection 1 shall
34 ~~not~~ be eligible for a ~~temporary restricted~~ an ignition
35 interlock license ~~for at least ninety~~ thirty days after the

1 effective date of the revocation or any date thereafter during
 2 the revocation period. ~~A temporary restricted~~ An ignition
 3 interlock license issued to a person whose driver's license or
 4 nonresident driving privilege has been revoked under subsection
 5 1, ~~paragraph "b",~~ shall be issued in accordance with section
 6 321J.20, ~~subsection 2.~~

7 ~~b. The department shall require the defendant to install~~
 8 ~~an ignition interlock device of a type approved by the~~
 9 ~~commissioner of public safety on all vehicles owned or operated~~
 10 ~~by the defendant if the defendant seeks a temporary restricted~~
 11 ~~license at the end of the minimum period of ineligibility.~~
 12 ~~A temporary restricted license shall not be granted by the~~
 13 ~~department until the defendant installs the ignition interlock~~
 14 ~~device.~~

15 3. If the person is a resident without a license or permit
 16 to operate a motor vehicle in this state, the department shall
 17 deny to the person the issuance of a license or permit for the
 18 same period a license or permit would be revoked, and deny
 19 issuance of a ~~temporary restricted~~ license for the same period
 20 of ineligibility for receipt of a ~~temporary restricted~~ an
 21 ignition interlock license, subject to review as provided in
 22 this chapter.

23 Sec. 10. Section 321J.12, subsection 2, Code 2011, is
 24 amended to read as follows:

25 2. a. A person whose driver's license or nonresident
 26 operating privileges have been revoked under subsection 1,
 27 ~~paragraph "a",~~ whose alcohol concentration is .08 or more ~~but~~
 28 ~~not more than .10~~ shall not be eligible for any temporary
 29 ~~restricted~~ an ignition interlock license ~~for at least thirty~~
 30 ~~days after~~ on the effective date of the revocation or any date
 31 thereafter during the revocation period if a test was obtained
 32 ~~and an accident resulting in personal injury or property~~
 33 ~~damage occurred.~~ ~~The department shall require the defendant~~
 34 ~~to install an ignition interlock device of a type approved by~~
 35 ~~the commissioner of public safety on all vehicles owned or~~

~~1 operated by the defendant if the defendant seeks a temporary
2 license. There shall be no such period of ineligibility if no
3 such accident occurred, and the defendant shall not be required
4 to install an ignition interlock device.~~

~~5 b. A defendant whose alcohol concentration is more than .10
6 shall not be eligible for any temporary restricted license for
7 at least thirty days if a test was obtained and an accident
8 resulting in personal injury or property damage occurred or the
9 defendant's alcohol concentration exceeded .15. There shall be
10 no such period of ineligibility if no such accident occurred
11 and the defendant's alcohol concentration did not exceed .15.
12 In either case, where a defendant's alcohol concentration is
13 more than .10, the department shall require the defendant to
14 install an ignition interlock device of a type approved by the
15 commissioner of public safety on all vehicles owned or operated
16 by the defendant if the defendant seeks a temporary restricted
17 license.~~

~~18 c. b. If the person is under the age of twenty-one, the
19 person shall not be eligible for a temporary restricted an
20 ignition interlock license for at least sixty days after the
21 effective date of the revocation.~~

~~22 d. A person whose license or privileges have been revoked
23 under subsection 1, paragraph "b", for one year shall not be
24 eligible for any temporary restricted license for forty-five
25 days after the effective date of the revocation, and the
26 department shall require the person to install an ignition
27 interlock device of a type approved by the commissioner
28 of public safety on all vehicles owned or operated by the
29 defendant if the defendant seeks a temporary restricted
30 license at the end of the minimum period of ineligibility. The
31 temporary restricted license shall be issued in accordance with
32 section 321J.20, subsection 2. A temporary restricted license
33 shall not be granted by the department until the defendant
34 installs the ignition interlock device.~~

~~35 Sec. 11. Section 321J.13, subsection 1, Code 2011, is~~

1 amended to read as follows:

2 1. Notice of revocation of a person's noncommercial
3 driver's license or operating privilege served pursuant to
4 section 321J.9 or 321J.12 shall include a form that states
5 on its face that the person may be eligible for an ignition
6 interlock license granting the person driving privileges
7 limited to driving vehicles equipped with an ignition interlock
8 device on the effective date of the revocation or at any time
9 thereafter during the revocation period. The form shall be
10 accompanied by a preaddressed envelope on which the person
11 served may indicate by a checkmark if the person ~~only~~ wishes to
12 ~~request a temporary restricted~~ apply for an ignition interlock
13 license on or after the mandatory ineligibility period for
14 ~~issuance of a temporary restricted license has ended, or if the~~
15 ~~person wishes a hearing to contest the revocation. The form~~
16 ~~shall clearly state on its face that the form must be completed~~
17 ~~and returned within ten days of receipt or the person's right~~
18 ~~to a hearing to contest the revocation is foreclosed. The form~~
19 ~~shall also be accompanied by a statement of the operation of~~
20 ~~and the person's rights under this chapter. effective date of~~
21 the revocation or at any time thereafter during the revocation
22 period or if the person desires a hearing to contest the
23 revocation. The form shall clearly state on its face all of
24 the following:

25 a. That the form must be completed and returned within ten
26 days of receipt or the person's right to a hearing to contest
27 the revocation is foreclosed.

28 b. That upon receipt by the department of a request for
29 an application for an ignition interlock license, the person
30 waives the person's right to a hearing.

31 Sec. 12. Section 321J.17, subsections 1 and 3, Code 2011,
32 are amended to read as follows:

33 1. If the department revokes a person's driver's license
34 or nonresident operating privilege under this chapter, the
35 department shall assess the person a civil penalty of two

1 hundred dollars. The money collected by the department under
 2 this section shall be transmitted to the treasurer of state
 3 who shall deposit one-half of the money in the separate fund
 4 established in section 915.94 and one-half of the money in
 5 the general fund of the state. ~~A temporary restricted~~ An
 6 ignition interlock license shall not be issued unless an
 7 ignition interlock device has been installed pursuant to
 8 ~~section 321J.4~~ this chapter. A driver's license or nonresident
 9 operating privilege shall not be reinstated unless proof of
 10 deinstallation of an ignition interlock device installed
 11 pursuant to ~~section 321J.4~~ this chapter has been submitted
 12 to the department. Except as provided in section 321.210B,
 13 ~~a temporary restricted~~ an ignition interlock license shall
 14 not be issued or a driver's license or nonresident operating
 15 privilege reinstated until the civil penalty has been paid.
 16 A person assessed a penalty under this section may remit the
 17 civil penalty along with a processing fee of five dollars to a
 18 county treasurer authorized to issue driver's licenses under
 19 chapter 321M, or the civil penalty may be paid directly to the
 20 department.

21 3. The department shall also require certification
 22 of installation of an ignition interlock device ~~of a type~~
 23 ~~approved by the commissioner of public safety on all~~ on one or
 24 more motor vehicles owned or operated by any person seeking
 25 reinstatement following a second or subsequent revocation under
 26 section 321J.4, 321J.9, or 321J.12, ~~unless such a person has~~
 27 ~~previously received a temporary restricted license during the~~
 28 ~~term of the revocation as authorized by this chapter.~~

29 a. The requirement for the installation and maintenance of
 30 an approved functioning ignition interlock device shall be for
 31 one hundred eighty days from the date of reinstatement for a
 32 first revocation under this chapter, and for one year from the
 33 date of reinstatement for a second or subsequent revocation
 34 under this chapter unless a different time period is required
 35 by statute.

1 b. A person shall receive a day-for-day credit toward
 2 the mandatory period required by paragraph "a" for any time
 3 the person had a valid ignition interlock license during the
 4 revocation period as authorized by this chapter.

5 Sec. 13. Section 321J.20, Code 2011, is amended by striking
 6 the section and inserting in lieu thereof the following:

7 **321J.20 Ignition interlock licenses — ignition interlock**
 8 **devices — penalty.**

9 1. a. The department may, on application, issue an ignition
 10 interlock license to a person whose noncommercial driver's
 11 license is revoked under this chapter if the person's driver's
 12 license has been revoked previously under section 321J.4,
 13 321J.9, or 321J.12.

14 b. This subsection shall not apply to a revocation ordered
 15 under section 321J.4 resulting from a plea or verdict of guilty
 16 of a violation of section 321J.2 that involved a death until
 17 completion of the period of incarceration ordered by the court
 18 for the incident leading to such conviction.

19 c. This subsection does not apply to a person whose license
 20 was revoked or suspended under any of the following:

21 (1) Section 321J.2A.

22 (2) Section 321J.4, subsection 4 or 6, until completion
 23 of the period of incarceration ordered by the court for the
 24 incident leading to such conviction.

25 (3) Another statute.

26 d. Following the applicable minimum period of the person's
 27 ineligibility, an ignition interlock license under this
 28 subsection shall not be issued until the person provides proof
 29 that an ignition interlock device is installed on one or more
 30 motor vehicles owned or to be operated by the applicant in
 31 accordance with section 321J.2, 321J.4, 321J.9, or 321J.12.
 32 Installation and maintenance of a functioning ignition
 33 interlock device under this subsection shall be required for
 34 the period of time for which the ignition interlock license is
 35 issued. The department shall cancel any ignition interlock

1 license issued under this subsection upon receipt of notice
2 from the person's ignition interlock device provider that the
3 person has removed or has failed to maintain a functioning
4 ignition interlock device on one or more vehicles owned or
5 operated by the person as required by this subsection. The
6 department shall reinstate the person's ignition interlock
7 license upon receipt of notice from the person's ignition
8 interlock device provider that the person has a functioning
9 ignition interlock device on one or more vehicles owned or
10 operated by the person, and upon payment of a twenty-five
11 dollar reinstatement fee.

12 2. The department, upon receipt of the conviction record
13 of a person required to install an ignition interlock device
14 for operating a motor vehicle not equipped with an approved
15 functioning ignition interlock device or upon receipt of
16 the conviction record of a person for tampering with or
17 circumventing an ignition interlock device, in addition
18 to other penalties provided, shall extend the period of
19 revocation, for an additional like period. The department
20 shall not revoke the person's ignition interlock license
21 solely for violations of this subsection, and if the person is
22 otherwise eligible, the person's ignition interlock license may
23 remain in effect during the additional period of revocation.

24 3. A person holding an ignition interlock license issued
25 by the department under this chapter shall not operate
26 a commercial motor vehicle on a highway if a commercial
27 driver's license is required for the person's operation of the
28 commercial motor vehicle.

29 4. A person holding an ignition interlock license issued by
30 the department under this chapter shall not operate a school
31 bus.

32 5. Notwithstanding any provision of this chapter to the
33 contrary, the department may issue an ignition interlock
34 license to a person otherwise eligible for an ignition
35 interlock license under this section whose revocation period

1 under this chapter has expired, but who has not met all
2 requirements for reinstatement of the person's driver's license
3 or nonresident operating privileges.

4 6. A person who tampers with or circumvents an ignition
5 interlock device installed as required in this chapter and
6 while the requirement for the ignition interlock device is in
7 effect commits a serious misdemeanor.

8 Sec. 14. NEW SECTION. 321J.20A **Employment exemption.**

9 1. a. If a person who is issued an ignition interlock
10 license or whose driver's license has an ignition interlock
11 restriction is required, in the course and scope of the
12 person's employment and at the direction of the person's
13 employer, to operate a noncommercial motor vehicle owned,
14 leased, or rented by the person's employer, the person may,
15 except as provided in paragraph "b", operate such motor vehicle
16 in the course and scope of the person's employment without
17 installation of an ignition interlock device if both of the
18 following apply:

19 (1) The employer has been notified that the person
20 is restricted to operating only vehicles equipped with a
21 functioning ignition interlock device.

22 (2) The person has proof of the notification in the person's
23 possession while operating the employer's motor vehicle. Proof
24 of the notification shall be established only by the notarized
25 signature of the employer acknowledging notification on a form
26 that shall be provided by the department for this purpose and
27 shall include a contact telephone number of the employer.

28 b. The exemption granted in paragraph "a" shall not apply in
29 any of the following circumstances:

30 (1) For any operation of an employer-owned motor vehicle for
31 the personal use of the person that is not within the course
32 and scope of the person's employment.

33 (2) If the employer-owned motor vehicle is owned by an
34 entity which is wholly or partially owned by the person subject
35 to this section, unless the person provides proof to the

1 satisfaction of the department that the entity is a legitimate
2 operating business entity and that the person's operation of
3 an employer-owned motor vehicle is necessary to the operation
4 of the entity.

5 (3) If the employer-owned motor vehicle is a school vehicle
6 or a vehicle designed to transport passengers for hire.

7 Sec. 15. Section 321J.21, subsection 2, Code 2011, is
8 amended to read as follows:

9 2. In addition to the fine, the department, upon receiving
10 the record of the conviction of a person under this section
11 upon a charge of driving a motor vehicle while the license of
12 the person was suspended, denied, revoked, or barred shall
13 extend the period of suspension, denial, revocation, or bar for
14 an additional like period, ~~and the department shall not issue a~~
15 ~~new license during the additional period.~~

16 Sec. 16. Section 321J.21, Code 2011, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. 3. A person whose period of suspension,
19 denial, revocation, or bar has been extended pursuant to
20 subsection 2 and who is otherwise qualified, may apply to have
21 an ignition interlock license issued upon the effective date of
22 the extended period of suspension, denial, revocation, or bar.

23 Sec. 17. Section 321J.23, Code 2011, is amended by adding
24 the following new subsections:

25 NEW SUBSECTION. 6. The state's established successful
26 history of requiring the use of ignition interlock devices
27 and the conclusions drawn from studies by the centers for
28 disease control and prevention of the United States department
29 of health and human services and other research proves that
30 ignition interlock devices prevent alcohol-impaired driving
31 when installed and maintained in a lawful and proper manner.

32 NEW SUBSECTION. 7. The installation of an ignition
33 interlock device on vehicles owned or operated by an
34 intoxicated driver convicted of an operating-while-intoxicated
35 offense in a timely and efficient manner will help make

1 highways safer for Iowa's families, and all state agencies and
 2 departments shall cooperate to support this endeavor to the
 3 fullest extent possible.

4 Sec. 18. Section 707.6A, subsection 1A, Code 2011, is
 5 amended to read as follows:

6 1A. Upon a plea or verdict of guilty of a violation of
 7 subsection 1, the defendant shall surrender to the court
 8 any Iowa license or permit and the court shall forward the
 9 license or permit to the department with a copy of the order
 10 of conviction. Upon receipt of the order of conviction, the
 11 department shall revoke the defendant's driver's license or
 12 nonresident operating privilege for a period of six years. The
 13 defendant shall not be eligible for a ~~temporary restricted~~
 14 ~~license for at least two years after the revocation~~ an ignition
 15 interlock license except as provided in section 321J.4.

16 EXPLANATION

17 This bill relates to operating-while-intoxicated offenses,
 18 including license revocation periods and ignition interlock
 19 licenses and devices, and provides penalties.

20 Current law provides that the department of transportation
 21 may issue a temporary restricted license (also known as a
 22 work permit) for violations of Code chapter 321 (department
 23 of transportation rules of the road) and for violations of
 24 Code chapter 321J (Iowa's operating-while-intoxicated law).
 25 The bill replaces temporary restricted licenses with ignition
 26 interlock licenses for violations of Code chapter 321J. This
 27 change does not affect temporary restricted licenses issued for
 28 violations of Code chapter 321.

29 An "ignition interlock license" is defined in the bill as a
 30 license which partially restores a person's driving privileges
 31 to operate a motor vehicle during the period a person's
 32 driver's license or privilege to operate a motor vehicle is
 33 suspended or revoked for violations of Code chapter 321J. The
 34 bill also provides for an ignition interlock restriction on the
 35 person's driver's license requiring the person to whom such

1 restricted license is issued to operate only noncommercial
2 vehicles equipped with a functioning ignition interlock device.
3 The issuance and continuing validity of both an ignition
4 interlock license and an ignition interlock restriction
5 is conditioned upon the installation and maintenance of an
6 ignition interlock device on one or more noncommercial vehicles
7 owned or to be operated by the person and restricting the
8 person's driving to vehicles so equipped.

9 Under the bill, the department of transportation is
10 authorized to issue an ignition interlock license immediately
11 upon revocation of a person's driver's license for all first
12 and second offenses under Code chapter 321J except a person
13 who refuses chemical testing (ineligible for 30 days after
14 the effective date of the revocation), a person under the age
15 of 21 (ineligible for 60 days after the effective date of
16 the revocation), if an accident occurred which resulted in a
17 death, or upon a third or subsequent offense (ineligible for an
18 ignition interlock license until completion of the period of
19 incarceration ordered by the court for the incident leading to
20 the conviction). In addition, a person convicted of a criminal
21 offense under Code chapter 321J is eligible for a reduction in
22 the person's criminal fine if the person obtains an ignition
23 interlock license.

24 On a conviction for or as a condition of a deferred judgment
25 for a violation of Code section 321J.2, the bill allows the
26 court to order the person to install and maintain ignition
27 interlock devices on one or more vehicles owned or operated by
28 the person for periods of time as determined by the court. The
29 court is required to notify the department of transportation
30 of the beginning and ending dates of such period and the
31 department is required to add an ignition interlock restriction
32 to the person's driver's record for the period ordered by the
33 court.

34 The bill provides that the department of transportation
35 shall cancel any ignition interlock license issued upon receipt

1 of notice from the person's ignition interlock device provider
2 that the person has removed or has failed to maintain a
3 functioning ignition interlock device on one or more vehicles
4 owned or operated by the person, and shall reinstate the
5 person's ignition interlock license upon receipt of notice
6 from the person's ignition interlock device provider that the
7 person has a functioning ignition interlock on one or more
8 vehicles owned or operated by the person, and upon payment of a
9 reinstatement fee. The department is also authorized to extend
10 the person's revocation period if the department receives
11 information the person has tampered with or has circumvented
12 an ignition interlock device. The department cannot revoke
13 the person's ignition interlock license, and if the person is
14 otherwise eligible, the person's ignition interlock license may
15 remain in effect during the additional period of revocation.

16 The bill prohibits a person holding an ignition interlock
17 license from operating a commercial motor vehicle on a highway
18 if a commercial driver's license is required for the person's
19 operation of the commercial motor vehicle and also prohibits
20 a person holding an ignition interlock license from operating
21 a school bus.

22 The bill provides that, notwithstanding any provision of
23 Code chapter 321J to the contrary, the department may issue
24 an ignition interlock license to a person otherwise eligible
25 for an ignition interlock license whose revocation period
26 under Code chapter 321J has expired, but who has not met all
27 requirements for reinstatement of the person's driver's license
28 or nonresident operating privileges.

29 The bill provides that a person who tampers with or
30 circumvents an ignition interlock device while the requirement
31 for the ignition interlock device is in effect commits a
32 serious misdemeanor.

33 The bill allows a person who is issued an ignition interlock
34 license, or whose driver's license has an ignition interlock
35 restriction in the course and scope of the person's employment

1 and at the direction of the person's employer, to operate a
2 noncommercial motor vehicle owned, leased, or rented by the
3 person's employer, to operate such motor vehicle in the course
4 and scope of the person's employment, without installation of
5 an ignition interlock device, if the employer has received
6 notice that the person is restricted to operating only vehicles
7 equipped with a functioning ignition interlock device. The
8 bill provides exceptions to this allowance including an
9 exception for an employer-owned motor vehicle that is a school
10 vehicle or a vehicle designed to transport passengers for hire.

11 The bill provides that a person who applies for an ignition
12 interlock license waives the person's right to a hearing
13 to contest the revocation or, if the required form is not
14 returned within 10 days of receipt, the person's right to a
15 hearing to contest the revocation is barred. The bill requires
16 the department of transportation to provide specific notice
17 relating to ignition interlock licenses.

18 The bill provides that unrestricted driving privileges shall
19 not be restored until a person seeking license reinstatement
20 installs and maintains an approved and functioning ignition
21 interlock device for 180 days from the date of reinstatement
22 for a first revocation, and for one year from the date of
23 reinstatement for a second or subsequent revocation. The bill
24 allows a person to receive a day-for-day credit toward the
25 mandatory period required for any time the person had a valid
26 ignition interlock license during the revocation period.

27 The bill increases the length of license revocation periods
28 for a person who refuses to submit to chemical testing under
29 Code section 321J.9 from one year to 18 months if the person
30 had no previous revocation under Code chapter 321J and from two
31 to three years for a person with a previous revocation.

32 The bill includes legislative findings.